

Order

Supreme Court
Lansing, Michigan

September 21, 2005

Clifford W. Taylor,
Chief Justice

128873

Michael F. Cavanagh
Elizabeth A. Weaver
Marilyn Kelly
Maura D. Corrigan
Robert P. Young, Jr.
Stephen J. Markman,
Justices

PEOPLE OF THE STATE OF MICHIGAN,
Plaintiff-Appellee,

v

SC: 128873
COA: 260525
Kent CC: 02-006903-FH

DAVID LEE COLBATH,
Defendant-Appellant.

On order of the Court, the application for leave to appeal the April 26, 2005 order of the Court of Appeals is considered and, pursuant to MCR 7.302(G)(1), in lieu of granting leave to appeal, we REMAND this case to the Kent Circuit Court for a determination of whether defendant is indigent and, if so, for the appointment of appellate counsel in light of *Halbert v Michigan*, 545 US ____; 125 S Ct 2582; 162 L Ed 2d 552 (2005). Appointed counsel may file an application for leave to appeal with the Court of Appeals, and/or any appropriate postconviction motions in the trial court, within 12 months of the date of the Kent Circuit Court's order appointing counsel, in accord with the deadlines in effect at the time defendant was denied counsel. See MCR 7.205(F)(3), MCR 6.311, and MCR 6.429. Counsel may include among the issues raised, but is not required to include, those issues raised by defendant in his application for leave to appeal to this Court. In all other respects, leave to appeal is DENIED, because we are not persuaded that the questions presented should now be reviewed by this Court.

We do not retain jurisdiction.



s0914

I, CORBIN R. DAVIS, Clerk of the Michigan Supreme Court, certify that the foregoing is a true and complete copy of the order entered at the direction of the Court.

September 21, 2005

Corbin R. Davis

Clerk